

REMARKS / DISCUSSION OF ISSUES

Claims 1-20 are pending in the application; claims 19 and 20 are new; and claims 1, 16 and 19 are independent claims. No new matter is added with the additional claims; and because Applicants paid for twenty total claims and three independent claims, no fees are believed to be due for the added claims.

Objection to the Specification

The amendments to the title at page 1 of the specification are believed to overcome the objection. Applicants note that the amendments are made to facilitate prosecution and in no way limit the scope of the present teachings. After all, the organic light emitting devices are electronic in nature.

Objections to the Claims

The objections to the claims are rendered moot in view of the non-substantive amendments. The amendments to certain other claims are provided to replace European-style phraseology with more common phraseology used in US practice.

Rejections under 35 U.S.C. § 102 and § 103

1. Claims 1-3, 13, 14 and 16 were rejected under 35 U.S.C. § 102(b) in view of *Motomatsu* (JP Patent Publication 2000-133440).
2. Claims 5-9, 12, 15 and 17 were rejected under 35 U.S.C. § 103(a) in view of *Motomatsu*.
3. Claim 4 was rejected under 35 U.S.C. § 103(a) in view of *Motomatsu* and *Murazuki, et al.* (JP Patent Publication 2003-178867).
4. Claims 10 and 11 were rejected under 35 U.S.C. § 103(a) in view of *Motomatsu* and *Jones* (U.S. Patent 5,920,080).

5. Claim 18 was rejected under 35 U.S.C. § 103(a) in view of *Hasegawa* (JP Patent Publication 2003-109755).

a. Rejections 1-5 are improper

As should be appreciated from the summary of the rejections above, each rejection relies completely or in-part upon Japanese patent application publications in Japanese. No translation has been provided of any of the publications, which were provided by the Examiner in PTO-892 provided with the Office Action. It does seem that the English-language Abstract has been provided for each publication. Regardless, the rejections are improper at least because a complete English-language version of the applied art has not been provided.

Applicants direct attention to MPEP § 706.02 (with emphasis provided by Applicants):

When an abstract is used to support a rejection, the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document. Citation of and reliance upon an abstract without citation of and reliance upon the underlying scientific document is generally inappropriate where both the abstract and the underlying document are prior art. See *Ex parte Jones*, 62 USPQ2d 1206, 1208 (Bd. Pat. App. & Inter. 2001) (unpublished). To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. **If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection. The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection.** ... In limited circumstances, it may be appropriate for the examiner to make a rejection in a non-final Office action based in whole or in part on the abstract only without relying on the full text document. In such circumstances, the full text document and a translation (if not in English) may be supplied in the next Office action.

(See also—*Ex parte Shade* (Appeal No. 2001-1241), which states, inter alia: : “In the future, the examiner would be well-advised not to rely on foreign-language documents.

An English-language equivalent, if available, or a translation of the foreign document would be a much more reliable basis for a prior art rejection...”)

For at least the reasons set forth above, Applicants respectfully submit that the failure on the part of the Examiner for comply with this section of the MPEP places them in the precarious position of having to attempt to prepare a reply to a rejection that relies solely on the Abstract. Because a full a complete understanding of the metes and bounds of the disclosures of the entire Japanese publications cannot be garnered, Applicants may find themselves making prejudicial statements based on their assessment of the abstracts. Thus, at this time Applicants respectfully decline to further present evidence of patentability and demur to the rejections as not meeting the basic tenets of patent examination as set forth in MPEP § 706; and thus not presenting a *prima facie* case of anticipation or obviousness.

In view of the foregoing, Applicants respectfully submit that the rejections are improper and should be withdrawn.

b. Further rejections cannot be made final

Because the rejections above have been improperly based upon either untranslated foreign-language patent publications, or English-language abstracts, all rejections are improper. If the Examiner provides translations of the documents, this will be the first instance that Applicants will be able to provide a complete and prepared response. Thus, equity mandates that no rejections based on the translations can be made final. Moreover, if other art is applied, given the non-substantive nature of the amendments only certain dependent claims, rejections based on other art cannot be made final.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, the fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.

/s/ William S. Francos/

by: William S. Francos (Reg. No. 38,456)
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